

Serial No. 10/621,973

Remarks

Claims 10-20 remain pending in the application. Claims 10 and 17 are independent claims. Claims 11-16 depend from independent claim 10 and claims 18-20 depend from independent claim 17.

102 Rejections

In the Office Action dated 05/04/2006, the Examiner rejected claims 10, 11, 13-17, 19 and 20 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,869,415 to Asbaghi (the Asbaghi patent).

With respect to independent claims 10 and 17, Applicant traverses the rejection and respectfully submits that at least one element of the original claim language including "...wherein the cantilevered tab is flush with the outer surface of the guard and clear of any interaction with the holder" is not anticipated by the Asbaghi patent. MPEP § 2131, with reference to rejections under 35 U.S.C. 102(e) states that, to anticipate a claim, the reference must teach every element of the claim and that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Although applicant disputes that the extension arms (50) of the Asbaghi patent correspond to the cantilevered tab of the present application, as suggested by the Examiner, the extension arms (50) of the Asbaghi reference do not anticipate the claims of the present application because they are not flush with the outer surface of the guard and are not clear of any interaction with the holder, as described in the claims of the present application. Thus, applicant respectfully requests that the rejections be withdrawn and submits that the claims are in condition for allowance.

Applicant respectfully requests that the rejections be withdrawn for claims 11, and 13-16, which are dependent from independent claim 10, and claims 19 and 20, which are dependent from independent claim 17, as these claims are dependent from independent claims that applicant submits are in condition for allowance.

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103 Rejections

Claims 12 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Asbaghi as modified by U.S. Patent Pub. 2001/0044607, to DeMichele et al.

Applicant traverses the rejections and respectfully submits that, in accordance with MPEP § 2143.03, at least one element of the original claim language including "...wherein the cantilevered tab is flush with the outer surface of the guard and clear of any interaction with the holder" is not anticipated by the Asbaghi patent. MPEP § 2143.03 states, in relevant part, that to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. Although applicant disputes that the extension arms (50) of the Asbaghi patent correspond to the cantilevered tab of the present application, as suggested by the Examiner, the extension arms (50) of the Asbaghi reference do not anticipate the claims of the present application because they are not flush with the outer surface of the guard and are not clear of any interaction with the holder, as described in the claims of the present application. Thus, applicant respectfully requests that the rejections be withdrawn and submits that the claims are in condition for allowance.

Conclusion

While several distinctions have been noted over the art of record, Applicant notes that there are several other limitations recited in the present claims which are neither taught nor suggested by the art of record. Applicant expressly reserves all rights and arguments with respect to distinctions not explicitly noted herein. Applicant traverses the rejections and preserves all rights and arguments. To the extent that any particular statement or argument by the Office in the pending Office Action has not been explicitly addressed herein, the same should not be construed as an acquiescence or admission by the Applicant that such statements or arguments by the Office are accurate or proper.

Based on the foregoing, all pending claims are in a condition for allowance. Accordingly, Applicant respectfully requests reconsideration and an early notice of allowance. Should the Examiner wish to discuss the amendments or arguments made herein, Applicant invites the

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Examiner to contact the undersigned at (513)651-6430 or via e-mail at vvandrake@fbtlaw.com. Applicants have previously submitted the required extension of time fee and petition fee on the firm credit card account. However, the Commissioner for Patents is hereby authorized to charge any deficiency or credit any overpayment of fees to Frost Brown Todd LLC Deposit Account No. 06-2226.

Respectfully Submitted,



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